

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Trademark Registration No. 3,662,484

77/378,015

For the mark : NATIONAL POLICE GAZETTE THE LEADING
ILLUSTRATED SPORTING JOURNAL IN AMERICA

Date registered: August 4, 2009

Canc. 92052260

Petitioner : Steven A. Westlake

v.

Registrant : Edgar Alexander Barrera

PETITIONER'S AMENDED PETITION TO CANCEL

Petitioner: Steven A. Westlake,
National Police Gazette Enterprises, LLC
d/b/a William A. Mays
P.O. Box 372
Binghamton, New York 13902

To the best of petitioner's knowledge, the name and address of the
current owner of the registration are:

Edgar Alexander Barrera,
22159 Ladera Street,
Grand Terrace, California 92313.

The above-identified petitioner believes that he will be damaged by the
above-identified registration, and hereby petitions to cancel same.

The grounds for cancellation are as follows:

1. On April 8, 2007 Petitioner began using the mark NATIONAL POLICE
GAZETTE THE LEADING ILLUSTRATED SPORTING JOURNAL IN AMERICA
to identify his online magazine and publishing activities.



09-15-2010

2. This use was prior to any use by Registrant of the mark NATIONAL POLICE GAZETTE THE LEADING ILLUSTRATED SPORTING JOURNAL IN AMERICA.

3. Petitioner has used the mark in interstate commerce, exhibited on Petitioner's website continuously since April 8, 2007.

4. Registrant knew, on the date of his trademark application, that Steven A. Westlake, d/b/a William A. Mays, had been using the subject trademark prior to the date of the trademark application.

5. Notwithstanding Petitioner's identification with the mark, as known by Registrant, Registrant in his trademark application fraudulently stated, "to the best of his/her knowledge and belief, no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause a mistake, or to deceive."

6. Registrant fraudulently obtained trademark registration under the Lanham Act for "magazines in the field of current events and sports" and "publication of magazines; newspaper publication; newspaper publishing" thereby committing fraud on the PTO, knowingly making a false, material representation

with the intent to deceive the PTO alleging first use of the mark on 01/02/1977 and first use of the mark in commerce on 01/02/1977.

7. Members of the public are, and are likely to be, confused as to the source of the goods and services identified by the mark.


8. Because Registrant's registration of NATIONAL POLICE GAZETTE THE LEADING ILLUSTRATED SPORTING JOURNAL IN AMERICA falsely suggests a connection with Petitioner, this registration is precluded by Section 2(a) of the Lanham Act, 15 U.S.C. §1052(a), and therefore should be cancelled.

Respectfully submitted,

HINMAN, HOWARD & KATTELL, LLP

By: 

Mark Levy
Attorney for Petitioner
80 Exchange Street
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Tel: (607) 231-6991


Kevin F. Guyette
Attorney for Petitioner
136 Court Street
Binghamton, NY 13901
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CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing PETITIONER'S AMENDED PETITION TO CANCEL in re: Steven A. Westlake v. Edgar Alexander Barrera, Opposition No. 92/052,260, was served on the Trademark Trial and Appeal Board, this 13th day of September, 2010, by sending same via First Class Mail, postage prepaid, to:

Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3514

Respectfully submitted,
HINMAN, HOWARD & KATTELL, LLP



By:

Mark Levy
80 Exchange Street
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Binghamton, NY 13901
Tel: (607) 231-6991
Fax: (606) 723-6605

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing PETITIONER'S AMENDED PETITION TO CANCEL in re: Steven A. Westlake v. Edgar Alexander Barrera, Cancellation No. 92/052,260, was served on counsel for Respondent, this 13th day of September, 2010, by sending same via First Class Mail, postage prepaid, to:

R. Emmett McAuliffe
RIEZMAN BERGER, P.C.
7700 Bonhomme, 7th Floor
St. Louis, Missouri 63105

Respectfully submitted,

HINMAN, HOWARD & KATTELL, LLP

A handwritten signature in black ink, appearing to read "Mark Levy", is written over the printed name.

By:

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